

1 UNITED STATES BANKRUPTCY COURT
2 NORTHERN DISTRICT OF CALIFORNIA

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4 In Re:) Case No. 19-30088
5 PG&E CORPORATION) Chapter 11
6 Debtor.) San Francisco, California
7) Wednesday, February 22, 2023
8) 10:00 AM

9 STATUS CONFERENCE RE MOTION
10 FOR QUIET TITLE, DECLARATORY
11 RELIEF AND TO AMEND CLAIM NO.
12 108715. FILED BY DAVID
13 ADDINGTON [13481]

14 STATUS CONFERENCE RE AMENDED
15 ORDER REGARDING DEBTORS'
16 DISPUTE WITH DAVID P.
17 ADDINGTON [13517]

18 TRANSCRIPT OF PROCEEDINGS
19 BEFORE THE HONORABLE DENNIS MONTALI
20 UNITED STATES BANKRUPTCY JUDGE

21 APPEARANCES (All present by video or telephone):
22 For the Debtor: THOMAS B. RUPP, ESQ.
23 Keller Benvenuti Kim LLP
24 650 California Street
25 Suite 1900
San Francisco, CA 94108
(415)636-9015

Also Present: David P. Addington
Individual Claimant

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Court Recorder: LORENA PARADA/ANKEY THOMAS
United States Bankruptcy Court
450 Golden Gate Avenue
San Francisco, CA 94102

Transcriber: RIVER WOLFE
eScribers, LLC
7227 N. 16th Street
Suite #207
Phoenix, AZ 85020
(800) 257-0885

Proceedings recorded by electronic sound recording;
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1 SAN FRANCISCO, CALIFORNIA, WEDNESDAY, FEBRUARY 22, 2023, 10:00

2 AM

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4 (Call to order of the Court.)

5 THE CLERK: Court is now in session, the Honorable
6 Dennis Montali presiding. Calling the matter of PG&E
7 Corporation.

8 THE COURT: All right. Good morning.

9 Mr. Addington, are you there to state your appearance?

10 MR. ADDINGTON: Yes, sir. David P. Addington. Do you
11 see me, Your Honor?

12 THE COURT: All right. I see we have --

13 MR. ADDINGTON: Okay.

14 THE COURT: -- a number of counsel for PG&E.

15 Mr. Rupp, are you taking the lead today or one of your
16 colleagues?

17 MR. RUPP: Good morning, Your Honor. Thomas Rupp of
18 Keller Benvenuti Kim on behalf of the reorganized debtors.

19 THE COURT: All right. Is there anyone else? I see
20 there's another name I don't recognize on the call.

21 Ms. Camisvero (ph.), did you wish to be heard?

22 MS. CAMISVERO: No, Your Honor. I'm just appearing on
23 behalf of AlixPartners, the financial adviser for the debtor.

24 THE COURT: Thank you.

25 Mr. Addington, you fooled me. I thought the company

1 was making things easier for you, and I never dreamed that
2 you'd declined my invitation. So the government appreciates
3 for you to have to pay a filing fee on the adversary
4 proceeding. But basically, adversary proceedings largely
5 protect the defendants. And PG&E, by waiving the requirement
6 of an adversary proceeding, in effect said, we're prepared to
7 deal with it the way Mr. Addington originally motioned it.

8 But you declined, so here we are. But procedurally,
9 it's really much ado about nothing. And I will take issue with
10 a statement you made in your statement. You've stated, citing
11 a California authority, that declaratory relief is not
12 appropriate on the pleadings. Well, no one's asking for
13 judgment on the pleadings here. PG&E's position, as I thought
14 we were going to go with, was to let you amend, and then they
15 were going to make a motion on the merits, which is what
16 they're entitled to do even with an adversary proceeding.

17 So I'll come back to you in a minute, Mr. Addington,
18 but Mr. Rupp, do I assume that even though we're now in the
19 context of an adversary proceeding, the company wants to make a
20 motion for either partial or total summary judgment?

21 MR. RUPP: Yes, Your Honor. It was our position that
22 we were going to file an amended motion for summary judgment
23 that would have resolved the entirety of the claim, as well as
24 the additional issues regarding the quiet title and declaratory
25 relief. Now that that adversary proceeding has been opened,

1 for better or worse, we would still like to do the same thing.
2 We don't think this changes the substance, only the form. And
3 so whether everything is heard in the adversary proceeding or
4 in the claim -- or in the claim objection in the main case,
5 then we just want one process of litigation and one final
6 order, or however it's all finally adjudicated, either in the
7 main case here or in the adversary procedure.

8 THE COURT: Well, I mean, even if we have an adversary
9 proceeding, I can consolidate it with the claim objection. The
10 point is, if you are successful in your motion, that might
11 resolve the matter. If you are unsuccessful, then perhaps
12 there has to be further proceedings.

13 So Mr. Addington -- well, we'll back up one more time.

14 Mr. Rupp, are you prepared to file that motion, if we
15 pick a date for you to do it and get it on file on and have it
16 heard?

17 MR. ADDINGTON: Yes, Your Honor. We put forward a
18 schedule in our statement, and the Court adopted it. And I
19 think we're -- like I said, I don't think this has changed
20 things, as long as we can have an amended MSJ that covers the
21 debtors objection to the claim as amended.

22 THE COURT: Yeah, fine. I understand. All I'm
23 getting at is, yes, I did adopt your procedure, but I gave Mr.
24 Addington the right to be heard. And I'll adopt that
25 procedure, unless Mr. Addington convinces me otherwise.

1 So Mr. Addington, I've asked you to wait for me. Now
2 I've done all the talking, go ahead and tell me what you want
3 to say.

4 MR. ADDINGTON: Well, Your Honor, I think my filing
5 intended to say what I wanted to say. And that is, I think in
6 order to resolve the claim, I have a few questions that I'd
7 like declaratory relief upon and the quiet title moving on.
8 And until those are --

9 THE COURT: But Mr. Addington, you don't seem to
10 understand something. You've chosen to initiate an adversary
11 proceeding. And --

12 MR. ADDINGTON: Yes.

13 THE COURT: -- let's assume that you're entitled to do
14 that. Whether you needed to isn't the point.

15 MR. ADDINGTON: Okay.

16 THE COURT: The company on the other side has a right
17 to make a motion to say, based upon what you have said in your
18 adversary proceeding and in your claim --

19 MR. ADDINGTON: Yes, sir.

20 THE COURT: -- it is entitled to a judgment in its
21 favor. And if they're correct, then we're done. If they're
22 not correct, then you can take it to the next step, whatever
23 that next step is.

24 MR. ADDINGTON: No. Yes, sir, I understand. I
25 certainly can't stop PG&E from filing whatever they care to

1 file.

2 THE COURT: Well, then again, I don't want to put you
3 on the defensive here, but I don't understand why you weren't
4 happy doing it exactly the way they described.

5 But in any event, I'm prepared, unless you have
6 anything else to say, to tell Mr. Rupp for procedurally, we'll
7 take the claim objection and the adversary proceeding together.
8 PG&E will make its motion. You'll have a chance to respond.
9 We'll have an argument, and I'll rule. And if I rule in your
10 favor, then we'll go to whatever is the appropriate next step.
11 If I rule in PG&E's favor, I will so rule, and that will be the
12 end of it at this level. Okay. Got that?

13 MR. ADDINGTON: Judge, my question is in waiting for
14 PG&E's summary judgment motion, is that meaning all other
15 adversarial proceeding actions are stopped? Not allowed
16 discovery? I'm not allowed interrogatory?

17 THE COURT: Well, no, you're not allowed discovery if
18 the plaintiff -- if the company, the debtor, can show that
19 based upon your facts, it is entitled to a ruling as a matter
20 of law.

21 MR. ADDINGTON: Yes, sir.

22 THE COURT: Judges are supposed to decide legal
23 questions. If there are facts in dispute, what are called
24 material facts in dispute, then summary judgment is not
25 appropriate. So your citation to an old case that says summary

1 judgment isn't appropriate on the pleadings is correct, but I
2 will add further that it is proper if there are no material
3 facts in dispute.

4 And so if PG&E files a motion that says based upon the
5 allegations of the adversary proceeding, which are assumed to
6 be true, and based upon other facts in the record that are
7 established --

8 MR. ADDINGTON: Yes, sir.

9 THE COURT: -- it, as a matter of law, is entitled to
10 whatever the relief it is.

11 MR. ADDINGTON: I understand.

12 THE COURT: And if you can persuade me that, A,
13 they're wrong, there are material facts in dispute, B, you are
14 entitled to take further discovery, then you'll be heard on
15 that subject. But again, it starts with the presumption that
16 what is alleged in the complaint is true.

17 MR. ADDINGTON: Yes, sir.

18 THE COURT: And the defendant says, what is alleged in
19 the complaint is true, but I win anyway.

20 MR. ADDINGTON: I understand.

21 THE COURT: And that's why it's appropriate for
22 summary judgment.

23 And again, Mr. Addington, this is not an invitation to
24 go back and revisit things that have been dealt with by prior
25 rulings and deadlines and so on. So if you believe you get to

1 start all over again in this whole dispute, you're mistaken.

2 But --

3 MR. ADDINGTON: No, no --

4 THE COURT: -- that's for PG&E to raise as its
5 defense, in effect, to your adversary proceeding by its summary
6 judgment motion.

7 MR. ADDINGTON: I understand.

8 THE COURT: Okay. You follow me?

9 MR. ADDINGTON: Yes, sir, I do.

10 THE COURT: Okay. So Mr. Rupp, I've been looking only
11 at the more recent filing for Mr. Addington. So just remind me
12 again, when would you -- when would you file your SJ motion,
13 and when do you want that heard? And of course, he has a
14 response time.

15 MR. RUPP: Your Honor, I have the order open in front
16 of me. Amended MSJ would be filed March 22. Opposition to be
17 filed April 19. Reply due May 17, and hearing May 24th at that
18 omnibus hearing.

19 THE COURT: Okay. Seems like it's -- too bad that has
20 to take so long because this case is going on forever, but
21 we'll go with that.

22 Mr. Addington, are you on board with that, then?

23 MR. ADDINGTON: Yes, sir. I mean, quicker would be
24 better on my end, but it --

25 THE COURT: It's up to you. As I say, he's going to

1 file it on March 22nd. Do you want me to give you an earlier
2 time to respond?

3 MR. ADDINGTON: No, sir. His proposal is fine.

4 THE COURT: Okay. I wasn't trying to trap you, but
5 PG&E -- look, today's February 22nd. Mr. Rupp says I'll file
6 my motion in one month. Well, I mean, I guess I'm not going to
7 quarrel with that. He doesn't ;

8 MR. ADDINGTON: No, I --

9 THE COURT: -- have to file -- I want you to be clear.
10 If you had initiated a new adversary proceeding by itself like
11 that, which is essentially a lawsuit, then that starts a bunch
12 of times running for issuance of the summons and a preliminary
13 scheduling conference and responses.

14 But here, because we've had this discussion and the
15 procedural history, the only thing PG&E has to do is file its
16 motion by the March 22nd date. It doesn't have to file
17 anything else in the adversary proceeding. If you believe
18 you're entitled to discovery, you can take that up with Mr.
19 Rupp and see if he agrees, and you just do it. If he
20 disagrees, you'll have to -- you'll have to make a motion to
21 suspend your time to oppose the summary judgment motion,
22 pending discovery.

23 In other words, when the defendant says, I'm entitled
24 to a summary judgment and the plaintiff says no, I need more
25 time to get relevant facts, then courts deal with that all the

1 time. And so the ball goes first to PG&E. It has to say, are
2 there any facts that it believes stand in the way of its
3 entitled to judgment. If it says no, these are the facts that
4 get me right to judgment, then the other side, you, Mr.
5 Arrington, in this case says, well, no, wait a minute. There's
6 some facts that I need to establish that show me that I can
7 defeat summary judgment.

8 MR. ADDINGTON: Okay.

9 THE COURT: And if PG&E agrees that you can have more
10 time to develop those facts, so be it. If they don't agree,
11 then again, that's for me to decide it on a procedural setting
12 at some point coming up in the future.

13 And again, I want to caution you that the history of
14 this case is getting long and gray-haired because there is such
15 a record. And it's hard for me to imagine that there are
16 further facts that need to be developed, but I'm not prejudging
17 that until I have to. Okay.

18 MR. ADDINGTON: Yes, sir.

19 THE COURT: Mr. Rupp, just to keep things neat and
20 clean, I would like you to then, concluding this hearing, just
21 restate in the heading of the adversary proceeding that the
22 following is the timetable for the procedures that have been
23 described, in other words. And so the order that I would ask
24 you to prepare will just recite the deadlines for your motion,
25 Mr. Addington's opposition, and so on and indicate further in

1 that same order that the objection to claim is consolidated
2 with the adversary proceeding so it's procedurally all in one
3 bundle. Okay.

4 MR. RUPP: Thank you. Thank you, Your Honor.

5 THE COURT: Okay.

6 MR. RUPP: You'd like me to prepare an order stating
7 that, and is that order, again, to be filed in the main case or
8 in the adversary proceeding?

9 THE COURT: Both. Do it in both.

10 MR. RUPP: Both. Okay.

11 THE COURT: Again, if Mr. Addington hadn't requested
12 this hearing and he had agreed to the procedure that you would
13 outlined, I would have -- I would have incorporated that as an
14 order. But because he chose to use the adversary proceeding
15 route, then we have to -- we have to take these two procedural
16 processes and marry them into one procedure.

17 And again, Mr. Addington, I'm not trapping you here.
18 We consolidate adversary proceedings and claim objections all
19 the time. And so you end up with a little bit of a duplication
20 of paper, but the concepts are all the same.

21 MR. ADDINGTON: Yes, sir. It appeared to me in your
22 preliminary order and in Mr. Rupp's reply that both of you had
23 said that adversarial proceeding was the right form to address
24 these things. So I thought I was doing what was --

25 THE COURT: It was the right form, except the

1 defendant says, I waive the protections. In other words, Mr.
2 Addington, if I chose to file a suit against you, or motion,
3 then you said, no, that requires an adversary proceeding, then
4 I'd have to start over.

5 MR. ADDINGTON: Yes.

6 THE COURT: So you would have the procedural
7 protections.

8 However, if you said, I don't care about those
9 procedural objections, I want to get to the merits, win or
10 lose, then you would have waived the protections of the
11 adversary proceeding. PG&E has waived those protections. But
12 you insisted on having them, so you're having them.

13 MR. ADDINGTON: Yes.

14 THE COURT: No harm. You're not going to be punished
15 for this. It's just, again, thank you for paying the filing
16 fee. We need every dollar we can get in the federal budget.

17 MR. ADDINGTON: It's my pleasure.

18 THE COURT: Okay. All right. Unless anyone else has
19 anything further, that concludes our hearing for today. And I
20 look forward to the order and to the briefing and maybe a
21 resolution to this matter.

22 All right. Anyone else?

23 MR. RUPP: Thank you.

24 THE COURT: Okay. Thank you all for your time.

25 (Whereupon these proceedings were concluded at 10:15 AM)

C E R T I F I C A T I O N

I, River Wolfe, certify that the foregoing transcript is a true
and accurate record of the proceedings.



/s/ RIVER WOLFE, CDLT-265

eScribers

7227 N. 16th Street, Suite #207

Phoenix, AZ 85020

Date: February 23, 2023

	ahead (1) 6:2	Both (4) 12:9,9,10,22	colleagues (1) 3:16	declaratory (3) 4:11,24;6:7
#	AlixPartners (1) 3:23	briefing (1) 13:20	coming (1) 11:12	declined (2) 4:2,8
#207 (1) 14:12	allegations (1) 8:5	budget (1) 13:16	company (4) 3:25;4:19;6:16; 7:18	defeat (1) 11:7
/	alleged (2) 8:16,18	bunch (1) 10:11	complaint (2) 8:16,19	defendant (3) 8:18;10:23;13:1
/s/ (1) 14:9	allowed (3) 7:15,16,17	bundle (1) 12:3	concepts (1) 12:20	defendants (1) 4:5
A	amend (1) 4:14	C	concluded (1) 13:25	defense (1) 9:5
accurate (1) 14:4	amended (4) 4:22;5:20,21;9:16	CALIFORNIA (2) 3:1;4:11	concludes (1) 13:19	defensive (1) 7:3
actions (1) 7:15	appearance (1) 3:9	Call (2) 3:4,20	concluding (1) 11:20	Dennis (1) 3:6
add (1) 8:2	appeared (1) 12:21	called (1) 7:23	conference (1) 10:13	described (2) 7:4;11:23
Addington (42) 3:9,10,10,13,25;4:7, 17;5:13,17,24,25;6:1, 4,9,12,15,19,24;7:13, 21;8:8,11,17,20,23; 9:3,7,9,11,22,23;10:3, 8;11:8,18;12:11,17, 21;13:2,5,13,17	appearing (1) 3:22	Calling (1) 3:6	consolidate (2) 5:9;12:18	develop (1) 11:10
Addington's (1) 11:25	appreciates (1) 4:2	Camisvero (2) 3:21,22	consolidated (1) 12:1	developed (1) 11:16
additional (1) 4:24	appropriate (5) 4:12;7:10,25;8:1,21	can (9) 5:9,20;6:22;7:18; 8:12;10:18;11:6,9; 13:16	context (1) 4:19	disagrees (1) 10:20
address (1) 12:23	April (1) 9:17	care (2) 6:25;13:8	convinces (1) 5:25	discovery (5) 7:16,17;8:14;10:18, 22
adjudicated (1) 5:6	argument (1) 7:9	case (7) 5:4,7;7:25;9:20; 11:5,14;12:7	Corporation (1) 3:7	discussion (1) 10:14
ado (1) 4:9	Arrington (1) 11:5	caution (1) 11:13	counsel (1) 3:14	dispute (5) 7:23,24;8:3,13;9:1
adopt (2) 5:23,24	assume (2) 4:18;6:13	CDLT-265 (1) 14:9	course (1) 9:13	dollar (1) 13:16
adopted (1) 5:18	assumed (1) 8:5	certainly (1) 6:25	Court (38) 3:4,5,8,12,14,19,24; 5:8,18,22;6:9,13,16, 20;7:2,17,22;8:9,12, 18,21;9:4,8,10,19,25; 10:4,9;11:9,19;12:5,9, 11,25;13:6,14,18,24	done (2) 6:2,21
adversarial (2) 7:15;12:23	authority (1) 4:11	certify (1) 14:3	courts (1) 10:25	dreamed (1) 4:1
adversary (23) 4:3,4,6,16,19,25; 5:3,7,8;6:10,18;7:7; 8:5;9:5;10:10,17; 11:21;12:2,8,14,18; 13:3,11	AZ (1) 14:13	chance (1) 7:8	covers (1) 5:20	due (1) 9:17
adviser (1) 3:23	B	changed (1) 5:19	D	duplication (1) 12:19
again (11) 7:2;8:15,23;9:1,12; 11:11,13;12:7,11,17; 13:15	back (3) 4:17;5:13;8:24	changes (1) 5:2	date (3) 5:15;10:16;14:15	earlier (1) 10:1
against (1) 13:2	bad (1) 9:19	chose (2) 12:14;13:2	David (1) 3:10	easier (1) 4:1
agree (1) 11:10	ball (1) 11:1	chosen (1) 6:10	deadlines (2) 8:25;11:24	effect (2) 4:6;9:5
agreed (1) 12:12	based (4) 6:17;7:19;8:4,6	citation (1) 7:25	deal (2) 4:7;10:25	either (2) 4:20;5:6
agrees (2) 10:19;11:9	basically (1) 4:4	citing (1) 4:10	dealt (1) 8:24	else (5) 3:19;7:6;10:17; 13:18,22
	behalf (2) 3:18,23	claim (10) 4:23;5:4,4,9,21;6:6, 18;7:7;12:1,18	debtor (2) 3:23;7:18	end (3) 7:12;9:24;12:19
	believes (1) 11:2	clean (1) 11:20	debtors (2) 3:18;5:21	entirety (1) 4:23
	Benvenuti (1) 3:18	clear (1) 10:9	decide (2) 7:22;11:11	entitled (9) 4:16;6:13,20;7:19; 8:9,14;10:18,23;11:3
	better (2) 5:1;9:24	CLERK (1) 3:5		eScribers (1)
	bit (1) 12:19			
	board (1) 9:22			

14:11 essentially (1) 10:11 establish (1) 11:6 established (1) 8:7 even (3) 4:16,18;5:8 event (1) 7:5 exactly (1) 7:4 except (1) 12:25	form (3) 5:2;12:23,25 forward (2) 5:17;13:20 FRANCISCO (1) 3:1 front (1) 9:15 further (6) 5:12;8:2,14;11:16, 25;13:19 future (1) 11:12	initiated (1) 10:10 insisted (1) 13:12 intended (1) 6:5 interrogatory (1) 7:16 into (1) 12:16 invitation (2) 4:2;8:23 issuance (1) 10:12 issue (1) 4:9 issues (1) 4:24	lose (1) 13:10	need (4) 10:24;11:6,16; 13:16 needed (1) 6:14 new (1) 10:10 next (3) 6:22,23;7:10 number (1) 3:14
F	G	J	M	O
facts (12) 7:19,23,24;8:3,6, 13;10:25;11:2,3,6,10, 16 favor (3) 6:21;7:10,11 FEBRUARY (3) 3:1;10:5;14:15 federal (1) 13:16 fee (2) 4:3;13:16 few (1) 6:6 file (11) 4:22;5:14,15;7:1; 9:12;10:1,5,9,15,16; 13:2 filed (3) 9:16,17;12:7 files (1) 8:4 filing (5) 4:3;6:4,25;9:11; 13:15 final (1) 5:5 finally (1) 5:6 financial (1) 3:23 fine (2) 5:22;10:3 first (1) 11:1 follow (1) 9:8 following (1) 11:22 fooled (1) 3:25 foregoing (1) 14:3 forever (1) 9:20	gave (1) 5:23 goes (1) 11:1 Good (2) 3:8,17 government (1) 4:2 gray-haired (1) 11:14 guess (1) 10:6	Judge (1) 7:13 Judges (1) 7:22 judgment (14) 4:13,20,22;6:20; 7:14,24;8:1,22;9:6; 10:21,24;11:3,4,7	main (3) 5:4,7;12:7 making (1) 4:1 March (3) 9:16;10:1,16 marry (1) 12:16 material (3) 7:24;8:2,13 matter (5) 3:6;5:11;7:19;8:9; 13:21 May (2) 9:17,17 maybe (1) 13:20 mean (3) 5:8;9:23;10:6 meaning (1) 7:14 merits (2) 4:15;13:9 might (1) 5:10 minute (2) 4:17;11:5 mistaken (1) 9:1 Montali (1) 3:6 month (1) 10:6 more (4) 5:13;9:11;10:24; 11:9 morning (2) 3:8,17 motion (17) 4:15,20,22;5:10,14; 6:17;7:8,14;8:4;9:6, 12;10:6,16,20,21; 11:24;13:2 motioned (1) 4:7 moving (1) 6:7 MSJ (2) 5:20;9:16 much (1) 4:9	objection (5) 5:4,9,21;7:7;12:1 objections (2) 12:18;13:9 old (1) 7:25 omnibus (1) 9:18 one (7) 3:15;5:5,5,13;10:6; 12:2,16 one's (1) 4:12 only (3) 5:2;9:10;10:15 oOo- (1) 3:3 open (1) 9:15 opened (1) 4:25 oppose (1) 10:21 Opposition (2) 9:16;11:25 order (11) 3:4;5:6;6:6;9:15; 11:23;12:1,6,7,14,22; 13:20 originally (1) 4:7 otherwise (1) 5:25 outlined (1) 12:13 over (2) 9:1;13:4
	H	K		
	I	L	N	P
	happy (1) 7:4 hard (1) 11:15 harm (1) 13:14 heading (1) 11:21 heard (6) 3:21;5:3,16,24; 8:14;9:13 hearing (5) 9:17,18;11:20; 12:12;13:19 history (2) 10:15;11:13 Honor (8) 3:11,17,22;4:21; 5:17;6:4;9:15;12:4 Honorable (1) 3:5	keep (1) 11:19 Keller (1) 3:18 Kim (1) 3:18	name (1) 3:20 neat (1) 11:19	paper (1) 12:20 partial (1) 4:20 pay (1) 4:3 paying (1) 13:15 pending (1)
	imagine (1) 11:15 incorporated (1) 12:13 indicate (1) 11:25 initiate (1) 6:10	largely (1) 4:4 law (2) 7:20;8:9 lawsuit (1) 10:11 lead (1) 3:15 legal (1) 7:22 level (1) 7:12 litigation (1) 5:5 little (1) 12:19 long (3) 5:20;9:20;11:14 look (2) 10:5;13:20 looking (1) 9:10		

10:22 perhaps (1) 5:11 persuade (1) 8:12 PG&E (12) 3:6,14;4:5;6:25; 7:8;8:4;9:4;10:5,15; 11:1,9;13:11 PG&E's (3) 4:13;7:11,14 ph (1) 3:21 Phoenix (1) 14:13 pick (1) 5:15 plaintiff (2) 7:18;10:24 pleadings (3) 4:12,13;8:1 pleasure (1) 13:17 point (3) 5:10;6:14;11:12 position (2) 4:13,21 prejudging (1) 11:16 preliminary (2) 10:12;12:22 prepare (2) 11:24;12:6 prepared (3) 4:6;5:14;7:5 presiding (1) 3:6 presumption (1) 8:15 prior (1) 8:24 procedural (5) 10:15;11:11;12:15; 13:6,9 procedurally (3) 4:8;7:6;12:2 procedure (5) 5:7,23,25;12:12,16 procedures (1) 11:22 proceeding (22) 4:4,6,16,19,25;5:3, 9:6;11,18;7:7,15;8:5; 9:5;10:10,17;11:21; 12:2,8,14,23;13:3,11 proceedings (5) 4:4;5:12;12:18; 13:25;14:4 process (1) 5:5 processes (1) 12:16 proper (1)	8:2 proposal (1) 10:3 protect (1) 4:5 protections (4) 13:1,7,10,11 punished (1) 13:14 put (2) 5:17;7:2 Q quarrel (1) 10:7 quicker (1) 9:23 quiet (2) 4:24;6:7 R raise (1) 9:4 really (1) 4:9 recent (1) 9:11 recite (1) 11:24 recognize (1) 3:20 record (3) 8:6;11:15;14:4 regarding (1) 4:24 relevant (1) 10:25 relief (4) 4:11,25;6:7;8:10 remind (1) 9:11 reorganized (1) 3:18 Reply (2) 9:17;12:22 requested (1) 12:11 requirement (1) 4:5 requires (1) 13:3 resolution (1) 13:21 resolve (2) 5:11;6:6 resolved (1) 4:23 respond (2) 7:8;10:2 response (1) 9:14	responses (1) 10:13 restate (1) 11:21 revisit (1) 8:24 right (10) 3:8,12,19;5:24; 6:16;11:4;12:23,25; 13:18,22 River (2) 14:3,9 route (1) 12:15 rule (4) 7:9,9,11,11 ruling (1) 7:19 rulings (1) 8:25 running (1) 10:12 Rupp (16) 3:15,17,17;4:18,21; 5:14;7:6;9:10,15; 10:5,19;11:19;12:4,6, 10;13:23 Rupp's (1) 12:22 S same (3) 5:1;12:1,20 SAN (1) 3:1 schedule (1) 5:18 scheduling (1) 10:13 seem (1) 6:9 Seems (1) 9:19 session (1) 3:5 setting (1) 11:11 show (2) 7:18;11:6 side (2) 6:16;11:4 SJ (1) 9:12 stand (1) 11:2 start (2) 9:1;13:4 starts (2) 8:15;10:11 state (1) 3:9 stated (1)	4:10 statement (3) 4:10,10;5:18 stating (1) 12:6 step (3) 6:22,23;7:10 still (1) 5:1 stop (1) 6:25 stopped (1) 7:15 Street (1) 14:12 subject (1) 8:15 substance (1) 5:2 successful (1) 5:10 suit (1) 13:2 Suite (1) 14:12 summary (10) 4:20,22;7:14,24,25; 8:22;9:5;10:21,24; 11:7 summons (1) 10:12 supposed (1) 7:22 suspend (1) 10:21 T talking (1) 6:2 Thomas (1) 3:17 though (1) 4:18 thought (3) 3:25;4:13;12:24 times (1) 10:12 timetable (1) 11:22 title (2) 4:24;6:7 today (2) 3:15;13:19 today's (1) 10:5 together (1) 7:7 total (1) 4:20 transcript (1) 14:3 trap (1)	10:4 trapping (1) 12:17 true (4) 8:6,16,19;14:3 trying (1) 10:4 two (1) 12:15 U unless (3) 5:25;7:5;13:18 unsuccessful (1) 5:11 up (5) 5:13;9:25;10:18; 11:12;12:19 upon (5) 6:7,17;7:19;8:4,6 use (1) 12:14 W wait (2) 6:1;11:5 waiting (1) 7:13 waive (1) 13:1 waived (2) 13:10,11 waiving (1) 4:5 wants (1) 4:19 way (3) 4:7;7:4;11:2 WEDNESDAY (1) 3:1 weren't (1) 7:3 Whereupon (1) 13:25 whole (1) 9:1 win (2) 8:19;13:9 wish (1) 3:21 Wolfe (2) 14:3,9 words (3) 10:23;11:23;13:1 worse (1) 5:1 wrong (1) 8:13 1
--	---	---	--	--

10:00 (1) 3:1 10:15 (1) 13:25 16th (1) 14:12 17 (1) 9:17 19 (1) 9:17				
2				
2023 (2) 3:1;14:15 22 (2) 3:1;9:16 22nd (3) 10:1,5,16 23 (1) 14:15 24th (1) 9:17				
7				
7227 (1) 14:12				
8				
85020 (1) 14:13				